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BAY AREA RAPID TRANSIT DISTRICT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PATRICIA NASH,

Plaintiff,

vs.

BAY AREA RAPID TRANSIT DISTRICT, DOES
1- 40,

Defendants.

NO. C 05 5307 VRW

**DECLARATION OF MARK
HAZELWOOD IN SUPPORT OF
MOTION BY DEFENDANT BAY
AREA RAPID TRANSIT
DISTRICT FOR
CONTINUANCE OF TRIAL
DATE**

Date: August 9, 2007
Time: 2:00 p.m.
Courtroom: 6

I, MARK HAZELWOOD, declare as follows:

1. I am a partner with the law offices of Low, Ball & Lynch. We represent defendant Bay Area Rapid Transit District in this action. I have personal knowledge of the information contained below.

2. On March 20, 2007, the Court issued a PreTrial Order which set a trial date of November 5, 2007. The Discovery Cut-Off is August 29, 2007. The Expert Disclosure is August 1st with Expert Discovery to be completed by August 29, 2007.

3. To date, the following discovery has been completed: Exchange of Written Discovery, including Interrogatories, Requests for Admissions and Requests for Production of Documents; Document Subpoenas; Deposition of Plaintiff Patricia Nash; Deposition of Train Operator Philip Johnson; Deposition of Station Agent Linda Ramirez; Deposition of David Sanborn; Initial Session of Deposition

1 of Ike Nnaji, BARTD Customer Access Dept.; and Inspection of BART cars.

2 As of today's date, the following discovery remains to be completed: Deposition of Train
3 Controller Kimberly Johnson; Deposition of System Service Worker Matt Marvel; Second Session of
4 Deposition of Ike Nnaji; Depositions of Persons Most Knowledgeable; IME of Plaintiff and Expert
5 Disclosure and Discovery.

6 4. Plaintiff's attorney Richard Kashdan will be on vacation from July 12th through July 26th. I will
7 begin a three week trial in Sonoma starting July 12th and will be on vacation from August 2nd through
8 August 13th. I also have trials set for September 18, 2007 and October 12, 2007.

9 5. Based on the above facts, BARTD seeks a three month continuance of the trial. A continuance is
10 necessary in order for the parties to complete discovery.

11 6. The hearing on this motion will not be until after the deadline for expert disclosure (August 1,
12 2007) and within a few weeks of the deadline for expert and lay discovery (August 29, 2007). As a
13 result, the parties have stipulated to continued the Pretrial Order discovery deadlines for thirty days.
14 The Stipulation is being submitted to the Court at the same time as this Motion.

15 7. The parties have been diligent in preparing the case for trial. Counsel was simply overly
16 optimistic when calculating how long it would take to complete discovery. If a three month continuance
17 is granted, the parties will be able to complete the necessary discovery. A continuance should not
18 inconvenience the Court or the parties as the motion is being filed four months prior to the current trial
19 date. Therefore, BARTD believes there is good cause for continuing the trial date in this case.

20 I declare under penalty of perjury under the laws of the State of California that the foregoing is
21 true and correct. Executed this 3rd day of July, 2007 at San Francisco, California.

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25 MARK F. HAZELWOOD
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